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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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:: O R D E R ::

Yogesh Chandra Pathak & Ors. Vs. Western Railway Employees Co-operative Credit Society Limited & Ors.

S.B. CIVIL WRIT PETITION NO.1747/2006.

Date of Order :: 19th April 2006.

PRESENT

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Ram Kishore Soni, for the petitioner.

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BY THE COURT:

This writ petition has been submitted by four petitioners claiming themselves to be the members/share holders of the respondent Society, claiming the following reliefs:-

> "(1) The respondents may kindly be directed to conduct and hold the election for constituating the Executive Committee of respondent society immediately.
>
> (2) The respondent may kindly be restrained from shifting the office of respondent Society from the present place i.e. within the Railway campus at Rana Pratap Nagar, Udaipur to any place outside the Railway Campus."

The reliefs aforesaid have been claimed by the petitioners with the submissions that the respondent Society is a registered Co-operative Society having registration No. 1388-Y whose members are only the railway employees and the authorities of Railway have deep and pervasive control over the finance, functioning and business of the respondent Society and hence, it is State within the meaning of Article 12 of the Constitution of India. It has been submitted that the aims and objects of the Society are to promote mutual co-operation, savings amongst the railway employees and to provide loan and other facilities to its members. Two-fold grievances of the petitioners have been stated in this petition: One, that since beginning, office of the Society is situated within the Railway campus at Rana Pratap Nagar, Udaipur which is easily accessible by its members who are none other than the railway employees but now the the said office is sought to be shifted by constructing a building at Sundervas near Rajasthan Patrika, Udaipur, and that too by way of a decision taken by the Executive Committee whose term has already come to an end; Secondly, that the tenure of the existing members having expired long back, the present Executive Committee has no authority to take vital decision regarding shifting of the building and as per the requirements

of law, elections to the Executive Committee ought to be held at the earliest.

The petitioners have pointed out in the writ petition that shifting of the office building of the respondent Society out and away from the railway premises is bound to cause prejudice to the business of the Society and to the members who are none other than the railway employees who would not be able to frequent the office of the Society; and such shifting would be detrimental to the interests of the members and thereby against the interests of the Society itself. It has also been pointed out that requests and representations against the proposed shifting have already been made by the members of the Society to the authorities concerned including the Deputy Registrar, Co-operative Societies, Udaipur and with reference to an order dated 22nd October 2005 (Annex.6), it has been pointed out that the construction has not been permitted for want of proper sanction from the authorities concerned.

During the course of submissions, learned counsel for the petitioners was posed with the question about the civil suit filed by one of the petitioners in the court of Civil Judge (Junior Division), Udaipur City North, Udaipur as stated

in para-5 of the reply sent by the Secretary of the Society (Annex.5). Learned counsel submitted that as per the instructions available with him, the said suit had later on been dismissed, however, he was not in a position to state whether the suit was dismissed on merits after trial or otherwise? Be that as it may, having considered all the facts and circumstances of the case, this Court is clearly of opinion that this petition remains fundamentally bereft of substance and the petitioners are not entitled for the reliefs claimed and, therefore, this writ petition deserves to be dismissed.

In the first place, it appears that the matter essentially relates to the management and the affairs of the respondent Co-operative Society, and if the petitioners as members of the Society seek to raise any such dispute, they ought to resort to appropriate remedies under the Co-operative Societies Act and the petitioners are not entitled to maintain a writ petition in that regard.

Moreover, so far the relief regarding holding of election is concerned, essentially it is a matter to be considered with reference to the bye-laws of the Society and the petitioners again had adequate remedy in that relation with the authorities under the Co-operatives Societies Act.

Further, in view of the admitted fact that a civil suit in relation to the same relief was filed by one of the petitioners and was dismissed; and the petitioners having not clarified all the facts in the writ petition, this Court is clearly of opinion that the petitioners are not entitled for any relief in relation to holding of elections and constitution of the Executive Committee of the Society.

For the other dispute regarding shifting of the office building too, the present writ petition seems to be a remedy entirely ill-conceived. Even on merits, it appears that the dispute is not well founded. It has been pointed in the reply sent by the Secretary of the Society (Annex.5) that the decision for purchasing a land for office building was taken by the Society way back in the year 1997-98 and it has also been stated that some of the petitioners were the members of Executive Committee when such decision was taken unanimously. It is also borne out from the said reply that the membership of the respondent Society is not limited to the employees at Udaipur only but is spread all over the Ajmer Division at places like Ajmer, Bhilwara, Nasirabad, Chittor, Kapasan, Bhopalsagar, Mavli, Kankroli, Nathdwara, Dungarpur, Marwar Junction and Abu Road etc. With such wide spread composition of the membership of the respondent

Society, the submission that the member employees would not be able to have adequate access to the Societies' Office if situated outside the railway premises, does not seem to be appropriate or correct inasmuch as such members who are not stationed at Udaipur would nevertheless be required to come from outside if they were to personally attend the office of the Society; and in overall circumstances of the case it seems that the decision to have a new office building of the Society is likely to be more conducive to the well being and proper functioning of the Society rather than operating against its interests.

Viewed from any angle, this writ petition remains totally bereft of substance and is, therefore, rejected.

(DINESH MAHESHWARI), J.

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